IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

Writ Petition No.5873 of 2003

Mrs Deena Jayprakash Jindal...Petitioner
vs
Divisional Jt Registrar & ors ..respondents

Mr. Shailesh Shah i/b T N Tripathi for petitioner
Mr R M Patne AGP for respondent nos.l and 2
Nr Y R Naik with Mr Prashant Naik for respondent no.3

CORAM: A.P.SHAH J.
Dated 25.l0.2005

P.C:

. Heard learned counsel for the parties. Perused the order passed by the revisional authority. By the impugned order the revisional authority has directed the petitioner to file her objections before the Special Recovery Officer under the provisions of rule l07(l9) of the Maharashtra Coop Societies Rules,l96l, hereinafter referred to as the said MCS Rules.

. The respondent no. 3 is a cooperative bank registered under the Maharashtra Coop Societies Act, l960, hereinafter referred to as the MCS Act. The respondent no. 4 has obtained loan from the respondent no.3 bank. Respondent nos. 5 to 8 are directors/ guarantors to the said loan. The petitioner is the wife of respondent no. 5. As

the respondent no. 4 defaulted payment of the dues of the bank, proceedings are initiated by the bank under section l0l of the MCS Act before the Asst Registrar, Coop Societies, in which recovery certificate has been issued and in execution of the said recovery certificate the Special Recovery Officer has attached the flat belonging to the petitioner. According to the bank the flat in question is mortgaged with the bank vide an agreement dated 26.5.2000 and by her letter dated ll.4.2000 the petitioner has consented for mortgage of the said flat in favour of the bank.

. The only contention raised by the learned counsel for the petitioner is that the Special Recovery Officer has no jurisdiction to decide the objections raised by the petitioner under rule l07(l9) of the MCS Rules. The contention is devoid of any merit. Rule l07(l9) of the MCS Rules reads as follows:

> "l9(a) Where any claim is preferred or any objection is made to the attachment of any property attached under this rule on the ground that such property is not liable to such attachment, the Sale Officer shall investigate the claims or objection and

dispose it of on merits;

Provided that, no such investigation shall be made when the Sale Officer considers that the claim or objection is frivolous.

(b) Where the property to which the claim or objection relates has been advertised for sale. The Sale Officer may postpone the sale pending the investigation of the claim or objection.

(c) Where a claim or an objection is preferred to the party against whom an order is made may institute a suit to establish the right, which he claims to the property in dispute, but,subject to the result of such suit, if any, the order shall be final.

. The aforesaid rule is widely worded and any objection made to the attachment can be decided by the authority constituted under the said rule. There is therefore no reason to entertain this petition and same is hereby dismissed.